

**Members**

Sen. Beverly Gard, Chairperson  
Sen. Lindel Hume  
Sen. Marvin Riegsecker  
Sen. Karen Tallian  
Rep. Ryan Dvorak  
Rep. David Wolkins  
Rep. Matt Pierce  
Rep. Marlin Stutzman  
Doug Meyer  
Stephen L. Murray  
Dave Wyeth  
Dwayne Burke  
Stacy Herr  
John Hardwick  
Art Umble  
Calvin Davidson  
Jon H. Moll  
Thomas Easterly



# ENVIRONMENTAL QUALITY SERVICE COUNCIL

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**Authority:** IC 13-13-7

## MEETING MINUTES<sup>1</sup>

**Meeting Date:** October 23, 2007  
**Meeting Time:** 9:30 A.M.  
**Meeting Place:** Senate Chambers, State House,  
200 W. Washington St.  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 4

**Members Present:** Sen. Beverly Gard, Chairperson; Sen. Lindel Hume; Rep. David Wolkins; Rep. Matt Pierce; Doug Meyer; Stephen L. Murray; Dave Wyeth; Dwayne Burke; Stacy Herr; John Hardwick; Calvin Davidson; Jon H. Moll; Thomas Easterly.

**Members Absent:** Sen. Marvin Riegsecker; Sen. Karen Tallian; Rep. Ryan Dvorak; Rep. Marlin Stutzman; Art Umble.

### 1. Call to Order

Sen. Gard called the meeting to order at 9:30 A.M.

### 2. Solid Waste Management

A presentation concerning solid waste management (Exhibit #1) was made by Karen Firestone, Indiana Legislative Services Agency. In response to questions from Sen. Gard, Ms. Firestone addressed the magnitude of solid waste management district budget

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

surpluses and means of measuring recycling diversion.

Lance Hodge, Association of Indiana Solid Waste Management Districts, commented on measurement of recycling diversion and the role of solid waste management districts in addressing various environmental concerns. In response to questions from Sen. Gard, Mr. Hodge addressed the frequency of audits of districts by the State Board of Accounts and district budget surpluses.

### 3. Storm water

Dr. Greg Lindsey, Associate Dean and Professor, Indiana University School of Public and Environmental Affairs, addressed the means by which various states fund storm water operations and infrastructure. He noted that although property tax funding is steady, stable, and reliable, some states have adopted charges on property that are tied to the amount of impervious area on the property. He emphasized the importance of employing best practices in the establishment of financing, including the application of credits for overlapping payments and the availability of appeal and remonstrance procedures.

Stephen Murray presented a report from the storm water utility work group entitled Findings and Conclusions Regarding Duplicative Storm Water Utility Fees in Indiana (Exhibit #2). In response to questions from Sen. Gard, Mr. Murray addressed the responsibility of a resident subject to overlapping storm water fees and identified Allen County and Hendricks County as locations where overlapping fees have been an issue.

### 4. Confined feeding operations

A presentation concerning confined feeding operations (Exhibit #3) was made by Bruce Palin, Assistant Commissioner, Office of Land Quality, Indiana Department of Environmental Management (IDEM) as required by 2007 Senate Resolution 72. In response to questions from council members, Mr. Palin addressed recent trends in complaints about and permit applications for confined feeding operations, means in the permit review process of dealing with bad actors, and pending enforcement actions against confined feeding operations.

### 5. Electronic waste recycling

A presentation concerning confined feeding operations (Exhibit #4) was made by Michael Huber, Deputy Commissioner, Indiana Department of Administration. In response to questions from council members, Mr. Huber addressed the current level of recycling of state owned and leased electronic equipment, issues with the auctioning of equipment, the potential development of equipment sales programs, and the potential for reducing the number of telephone books distributed to state employees.

A presentation on electronic waste recycling (Exhibit #5) was made by Michelle Cohen, Executive Director, Indiana Recycling Coalition. She also distributed to council members an E-Scrap Action Program Toolkit (Exhibit #6), a document entitled Best Practices in Recycling (Exhibit #7), and an e-scrap pamphlet (Exhibit #8). In response to questions from council members, Ms. Cohen addressed issues with the auctioning of waste electronic equipment, the potential for banning the disposal of cathode ray tubes in landfills, the potential for an increase in the waste stream upon the conversion of television sets from analog to digital, the need for regulations requiring disclosure of the hazardous substance contents of various products, and potential regulation to require product manufacturers to be responsible for disposal when the life of the product ends.

## 6. Environmental legal actions

A presentation on the statute of limitations for Indiana environmental legal actions (ELA's) (Exhibit #9) was made by Sean Riggs, Barnes & Thornburg. Mr. Riggs also distributed to council members comments on the subject by John Kyle, Barnes & Thornburg (Exhibit #10).

John Keeler, Baker & Daniels, described the appeal involving ACF Industries pending in federal court concerning the statute of limitations for ELA's. Although he acknowledged the right of the Indiana General Assembly to set the limitation period, he expressed opposition to doing so retroactively. He is concerned that action by the General Assembly could have the effect of reversing the determination in the ACF Industries case. He also expressed concern about the effect of such action on environmental remediation insurance contracts. In response to questions from council members, Mr. Keeler addressed the application of the discovery rule in the ACF Industries case and means of addressing the statute of limitations without favoring any party to pending litigation.

A memorandum on the subject (Exhibit #11) from George Plews, Jeff Featherstun, and Angela Dorrell, Plews Shadley Racher & Braun, was distributed to council members.

Sen. Gard stated that she has no interest in affecting the outcomes of cases of particular litigants, and is interested solely in providing a uniform statewide policy that encourages environmental remediation and requires responsible parties to pay.

## 7. Other testimony

Glenn Pratt commented on the importance of integrating programs and expenditures for storm water runoff, combined sewer overflow issues, and septic system issues. He believes that the General Assembly and IDEM should give priority to this concept.

Dr. Rae Schnapp, Water Policy Director and Wabash Riverkeeper, Hoosier Environmental Council, commented that she understands that the inspection process for confined feeding operations focuses solely on the production area and not the land application area, and that the biggest potential for water quality impacts and spills occurs during land application. The Hoosier Environmental Council would like the manure management plan to be an enforceable part of the permit so that the land application practices would be subject to inspection.

## 8. Recommendations for Final Report

Sen. Gard urged council members to develop and submit recommendations for the council's final report.

## 9. Adjournment

Sen. Gard adjourned the meeting at 11:45 A.M.